

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

XTERA, INC., XTERA TOPCO LTD., and
NEPTUNE SUBSEA IP LTD.,

Plaintiffs

v.

NOKIA OF AMERICA CORPORATION,

Defendant.

Civil Action No. 6:19-cv-00278-ADA

JURY TRIAL DEMANDED

**UNOPPOSED MOTION FOR LEAVE TO FILE DECLARATION OF DR. MAITE
BRANDT-PEARCE IN SUPPORT OF NOKIA OF AMERICA CORPORATION'S
OPENING CLAIM CONSTRUCTION BRIEF**

Defendant Nokia of America Corporation (“NAC”) respectfully moves for leave to file the Declaration of Dr. Maite Brandt-Pearce, attached hereto as Exhibit A. NAC timely filed its Opening Claim Construction Brief, along with the Declaration of David Frist and supporting exhibits, on February 19, 2019, at 4:37 pm CST (Dkt. 43). The Declaration of Dr. Maite Brandt-Pearce was inadvertently excluded from the filing. NAC seeks leave to file that declaration. Plaintiffs Xtera, Inc., Xtera Topco Ltd., and Neptune Subsea IP Ltd. (“Xtera”) do not oppose the relief sought herein.

NAC is filing the instant Motion for Leave within hours of learning of the omission, and has already served the declaration on Xtera. Moreover, prior to filing its Opening Claim Construction Brief, NAC timely disclosed a detailed overview of the expected expert testimony of Dr. Brandt-Pearce pursuant to the Court’s Order Governing Proceedings – Patent Case (Dkt. 29) and Scheduling Order (Dkt. 40) (Ex. B). Dr. Brandt-Pearce signed the final declaration prior to NAC’s filing, and no changes have been made to that declaration in the meantime. Finally,

responsive claim construction briefs are not due until March 18, 2020, which provides more than three weeks for Xtera to review and respond to Dr. Brandt-Pearce's opinions. Xtera will thus not suffer any prejudice from the requested relief.

For the foregoing reasons, NAC respectfully requests leave to file the attached Declaration of Dr. Maite Brandt-Pearce (Ex. A).

LOCAL RULE CV-7(i) CERTIFICATION

Pursuant to Local Rule CV-7(i), counsel for NAC certifies that it conferred with counsel for Xtera in a good-faith attempt to resolve the matter by agreement, and Xtera does not oppose the relief sought herein.

Dated: February 25, 2020

/s/ David S. Frist

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of February, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send notification of such filing upon Counsel of Record.

/s/ David S. Frist
David S. Frist